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U.S. Department of State  
CA/OCS/PRI  
Adoption Regulations Docket Room, SA-29  
2201 C Street NW  
Washington, D.C. 20520

December 15, 2003

Re: Comments on Proposed Intercountry Adoption Regulations  
State/ AR-01/ 96

To Whom It May Concern:

The text of ACCEPT's comments, set forth below, on the Proposed Rules was sent electronically to [adoptionregs@state.gov](mailto:adoptionregs@state.gov) on December 13, 2003. This original and the enclosed copy are being submitted today pursuant to directions contained in the Federal Register, Vol. 68, No. 78, p. 54064.

#### Introduction

ACCEPT is a small non-profit international adoption agency licensed by the State of California since 1991. Having a staff of 3.6 full-time equivalent positions, we are a local service agency that provides home studies and post-placement supervision for northern California families choosing to adopt abroad. ACCEPT families adopt from China, Russia, India, Guatemala, Peru, Kazakhstan, and Vietnam (prior to that country's closure), as well as other countries permitting international adoption. More than 1,200 foreign-born children have found permanent homes with ACCEPT families during the 12 years our doors have been open. We have never been sued, nor has any client filed a formal or informal complaint against the Agency. Of the 1,200 + adoptions that we have overseen, only five have disrupted. ACCEPT's mission is to find caring families for orphaned and abandoned children while adhering to the highest ethical standards of international adoption. We also strive to do our work efficiently and effectively and to keep costs for adopting families as low as is practicable.

ACCEPT • An Adoption and Counseling Center

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## Response to Proposed Regulations

We have carefully reviewed the comments on 22 CFR Part 96 submitted by the Joint Council on International Children's Services ("JCICS"), of which ACCEPT is a member. We hereby adopt the positions and arguments set forth in those comments, dated November 21, 2003, as if they had been submitted by ACCEPT, with the exception of the JCICS position on the numerical threshold for temporary accreditation (Sections **96.96** and **96.98**).

With respect to the unfairness and impracticality of assigning liability to the agency serving as primary provider as set forth in Sections **96.45** and **96.46**, JCICS makes the point that families often create the relationship between local service agencies and placement agencies or facilitators because of their own decisions as to how to undertake their adoptions. ACCEPT wishes to reemphasize and further support this point. It is in fact the case at ACCEPT that families make their own determination of what entity to use as a placement agency, frequently after the home study process has commenced. Families pay fees charged by the placing agencies or organizations directly to such organizations, never to or through ACCEPT. Thus, an after-the-fact relationship between ACCEPT, as a local service agency, and a particular placement agency arises at the behest of the family rather than at the choice or direction of ACCEPT. This is the manner in which most international adoptions occur except in the circumstance of large agencies that perform both home study and placement services for local families. Accordingly, superimposing vicarious liability on the ad hoc relationships between and among adoption service providers does not make sense and will ultimately result in reducing families' freedom to make informed, unfettered choices as to selection of agencies that will help them find adoptable children needing permanent homes. In sum, the vicarious liability solution to problems of consumer protection may seem neat and tidy, but it is manifestly inappropriate and would, indeed, alter the structure of how international adoption is accomplished in the United States, contrary to the dictates of the Intercountry Adoption Act ("IAA").


Concerning the threshold for temporary accreditation (Sections **96.96** and **96.98**), ACCEPT questions the rationale that adoption services provided in non-Hague Convention cases should be counted. Current language states that agencies or persons who provide adoption services in fewer than 100 or 50 international adoptions during the qualifying calendar year may seek temporary accreditation for periods of one or two years, respectively. ACCEPT urges the Department of State to reconsider this formulation. Compliance with the Regulations will be a difficult and time-consuming undertaking that will be prohibitively expensive for many agencies, including ACCEPT, and exceedingly difficult for agencies with small staffs. The provisions concerning temporary accreditation do not offer sufficient relief for the smaller agencies, such as our

agency. Therefore, ACCEPT requests that the threshold for temporary accreditation be based only upon the number of Convention cases in which an agency provides adoption services. More specifically, ACCEPT suggests that agencies that have provided services in fewer than 30 Convention cases during the qualifying year be allowed to seek temporary accreditation for one year, and that agencies that have provided services in fewer than 15 Convention cases be allowed to seek temporary accreditation for two years. If this recommendation is not accepted, then we urge that the thresholds be raised to 200 cases for one of temporary accreditation and 100 cases for two years of temporary accreditation.

Finally, ACCEPT strongly endorses the JCICS position that the Proposed Rules should be reissued as Revised Proposed Rules after this first round of public comment rather than as Final Rules. These regulations will profoundly change the face of international adoption and will inevitably reduce the number of agencies able to provide services in Convention cases and, because of increased costs to adoptive parents, the number of families able to adopt. Because of the far-reaching impact of this regulatory scheme, extreme care must be taken to balance the interests of all parties who will be affected by it -- adoptive families, agencies, other persons seeking accreditation, and, most significantly, desperate children whose lives can be utterly changed, and in many cases saved, by successful international adoption. Such care demands another opportunity to comment upon the revised regulations before they are put in final form. In addition, a further round of review would increase the likelihood that the Final Rules will be consistent with the IAA and thus may reduce the quantum of litigation that will follow their implementation.

ACCEPT appreciates the opportunity to provide comments on the Proposed Rules. I would be pleased to provide any further information the Department might wish. Thank you for your consideration of these comments.

Very truly yours,



Susan C. Barton  
Executive Director, ACCEPT